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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,902	02/08/2002	Christopher B. Hewett	0320	2268
21839	7590	08/26/2008		
BUCHANAN, INGERSOLL & ROONEY PC				EXAMINER
POST OFFICE BOX 1404				BUTLER, MICHAEL E
ALEXANDRIA, VA 22313-1404			ART UNIT	PAPER NUMBER
			3653	
NOTIFICATION DATE	DELIVERY MODE			
08/26/2008	ELECTRONIC			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/071,902	Applicant(s) HEWETT, CHRISTOPHER B.
	Examiner MICHAEL E. BUTLER	Art Unit 3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 July 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 37-42, 44-45 and 48-52 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 37-42 and 44-45 and 48-52 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/06)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim(s) 37-42 and 44-45 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovine 4879442 in view of Smith et al. 6364156 wherein Giovine discloses the elements previously discussed and further discloses:

expanding the tissue disposal section internal volume (c3 L 25-29)
removing tissues in the direction of the expansion (c3 L 13-19, divider expands with dispenser)

inserting used tissues in the disposing orifice at an upper body portion in a direction opposite the tissue dispensing orifice (c3 L 25-29)

expanding a pleats around the body periphery in the disposal section bag has pleats 932 that expands as a function of moving the divider 28

expanding the disposal section in the vertical direction (c3 L 25-29)

expanding the disposal section in the vertical direction (c3 L 25-29)

expanding the disposal section at least double the original volume (as the original disposal section is originally collapsed, the low near zero original divisor results in a doubled volume calculation)

Smith et al. discloses:

Mounting the body above the floor with the dispenser orifice downward (c2 L 16-26; c1 L 30-39)

It would have been obvious at the time of the invention for Giovine to mount its dispenser with the dispensing orifice down to give the user quick convenient gravity feed assisted sheets or napkins in an uncluttered space saving location as taught by Smith et al. .

3. Claim(s) 37 and 48-52 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies 3331498 in view of Smith et al. 6364156 wherein Davies discloses:

expanding the tissue disposal section internal volume (c2 L 44-55)
removing tissues in the direction of the expansion (c2 L 44-55)

inserting used tissues in the disposing orifice at an upper body portion in a direction opposite the tissue dispensing orifice (c2 L 46-57)

pulling off a lid from the body to expose the interior of the tissue disposal section (c2 L 37-44)

pulling off a lid to expose the interior of the tissue dispenser section (c2 L 37-44)
and inserting tissues therein (c2 L 46-57)

Smith et al. discloses:

Mounting the body above the floor with the dispenser orifice downward (c2 L 16-26; c1 L 30-39)

It would have been obvious at the time of the invention for Davies to mount its dispenser with the dispensing orifice down to give the user quick convenient gravity feed assisted sheets or napkins in an uncluttered space saving location as taught by Smith et al.. *Response to*

Amendments/Arguments

4. Applicant's amendment was effective in overcoming the previous rejections.

Applicant's further arguments are deemed moot in view of the new grounds for rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MICHAEL E. BUTLER/

Primary Examiner, Art Unit 3653